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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2003-63475

SHARON KAY BAUTISTA
12631 Orange Blossom Lane
Riverside, California 92503

A C C U S A T I O N

Physical Therapist License No. PT 24458,
Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).
2. On or about August 11, 1999, the Board issued Physical Therapist License Number PT 24458 to Sharon Kay Bautista (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2005, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following sections of the Business and Professions Code (Code).
4. Section 2609 of the Code states:

1 "The board shall issue, suspend, and revoke licenses and approvals to practice
2 physical therapy as provided in this chapter [chapter 5.7, commencing with section 2600]."

3 5. Section 2660 of the Code states:

4 "The board may, after the conduct of appropriate proceedings under the Administrative
5 Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions
6 upon any license, certificate, or approval issued under this chapter for unprofessional conduct that
7 includes, but is not limited to, one or any combination of the following causes:

8 "...

9 "(i) Conviction of a violation of any of the provisions of this chapter or of the State
10 Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting
11 in or abetting the violating of, or conspiring to violate any provision or term of this chapter
12 or of the State Medical Practice Act.

13 "...

14 "(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially
15 related to the qualifications, functions, or duties of a physical therapist or physical therapy
16 assistant. . . ."

17 6. Section 810 of the Code states:

18 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
19 including suspension or revocation of a license or certificate, for a health care professional to
20 do any of the following in connection with his professional activities:

21 "(1) Knowingly present or cause to be presented any false or fraudulent claim for the
22 payment of a loss under a contract of insurance.

23 "(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use
24 the same, or to allow it to be presented or used in support of any such claim.

25 "(b) It shall constitute cause for revocation or suspension of a license or certificate for
26 a health care professional to engage in any conduct prohibited under Section 1871.1 or 1871.4
27 of the Insurance Code.

28 "(c) As used in this section, health care professional means any person licensed or

1 certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or
2 the Chiropractic Initiative Act."

3 7. Section 2262 of the Code states:

4 "Altering or modifying the medical record of any person, with fraudulent intent, or
5 creating any false medical record, with fraudulent intent, constitutes unprofessional conduct."

6 8. California Code of Regulations, Title 16, section 1399.20, states:

7 "For the purposes of denial, suspension or revocation of a license, pursuant to Division
8 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially
9 related to the qualifications, functions or duties of a person holding a license under the Physical
10 Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person
11 to perform the functions authorized by the license or approval in a manner consistent with the public
12 health, safety or welfare. Such crimes or acts shall include but not be limited to the following:

13 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
14 the violation of, or conspiring to violate any provision or term of the Physical Therapy
15 Practice Act.

16 " . . .

17 "(c) Violating or attempting to violate any provision or term of the Medical Practice
18 Act."

19 9. Section 2661.5, subdivision (a) of the Code states:

20 "In any order issued in resolution of a disciplinary proceeding before the board, the
21 board may request the administrative law judge to direct any licensee found guilty of unprofessional
22 conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation
23 and prosecution of the case."

24 **FIRST CAUSE FOR DISCIPLINE**

25 (False or Fraudulent Insurance Claims)

26 10. Respondent is subject to disciplinary action under sections 2660, subdivision
27 (i) and 810 of the Code, in that she knowingly prepared and presented false and fraudulent insurance
28 claims. The circumstances are as follows:

1 A. Respondent was the director and president of Limelight Physical
2 Therapy from about February 1, 2002, until December 12, 2002. She had a contract with
3 Shadow Management, Inc. to provide physical therapy services at the clinic which Shadow
4 Management set up and managed for her. Preferred Physical Therapy Billing did all of the
5 billings for Limelight Physical Therapy.

6 B. From about May 15, 2002, through July 19, 2002, respondent submitted
7 false insurance claims to Blue Cross for physical therapy services for herself through her
8 company Limelight Physical Therapy. In her declaration dated October 1, 2003, respondent
9 stated she never had physical therapy at the clinic. In an interview with investigators from the
10 Department of Consumer Affairs on February 24, 2004, respondent stated she started a
11 physical therapy chart for herself and filled out a patient information sheet on May 15, 2002.
12 She completed and signed treatment sheets for about twenty-three sessions of physical therapy
13 which she never had, but which were submitted to Blue Cross. The explanation of benefits
14 forms from Blue Cross indicated that payments for the false claims were applied to her
15 insurance deductible. In her declaration dated February 24, 2004, respondent again admitted
16 she never received physical therapy, but filled out and signed super bills which were sent to
17 the billing company and to her insurance company for twenty-three treatments from May 15,
18 2002, through July 19, 2002.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Creating a False Medical Record)

21 11. Respondent is subject to disciplinary action under sections 2660, subdivision
22 (i) and 2262 of the Code in that she created a false medical record with fraudulent intent. The facts
23 and circumstances, set forth in Paragraph 10 of this Accusation, are incorporated herein by reference.

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Commission of Fraudulent, Dishonest or Corrupt Acts)

26 12. Respondent is subject to disciplinary action under sections 2660,
27 subdivision (l), and California Code of Regulations, Title 16, section 1399.20, subdivisions (a)
28 and (c), in that she committed fraudulent, dishonest or corrupt acts which are substantially related

1 to the qualifications, functions, or duties of a physical therapist. The circumstances are as
2 follows:

3 A. The facts and circumstances set forth in Paragraph 10 of this Accusation are
4 incorporated herein by reference.

5 B. The contract between respondent and Shadow Management provided that
6 money received from physical therapy services was to be deposited into Shadow
7 Management's account. Shadow Management would then pay a percentage of the money
8 to respondent. However, some of the checks for physical therapy services were paid
9 directly to respondent, who did not turn over the checks to Shadow Management, but
10 instead cashed or deposited the checks into her own bank account.

11 The Explanation of Benefits from United Healthcare Insurance Company indicated
12 that on October 18, 2002, checks were paid to respondent as the provider of service as
13 follows: a check in the amount of \$206.15 for services provided to patient E.M., a check
14 in the amount of \$268.55 for services provided to patient G.M., a check in the amount of
15 \$31.81 for services provided to patient D.H., and a check in the amount of \$293.10 for
16 services provided to patient J.L. These checks were cashed by respondent or deposited
17 into her personal account.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct)

20 13. Respondent is subject to disciplinary action under section 2660 of the Code
21 in that she engaged in unprofessional conduct. On December 12, 2002, respondent terminated
22 her agreement with Shadow Management and left the facility with no prior notice. She took with
23 her about 200 physical therapy charts and patient billing information for the patients of Limelight
24 Physical Therapy. Respondent signed a declaration dated October 1, 2003, in which she admitted
25 that she took the charts. Her actions made it difficult to properly treat the patients who remained
26 at the Shadow Management facilities, causing the physical therapists to have to reconstruct patient
27 information.

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1. Revoking or suspending Physical Therapist License Number PT 24458 issued to Sharon Kay Bautista;
2. Ordering her to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
State of California

Complainant